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The Human rights situation in Palestine and other occupied Arab Territories

Joint written statement* submitted by Cairo Institute for Human Rights Studies, BADIL Resource Centre for Palestinian Residency and Refugee Rights, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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8 years of collective punishment and the humanitarian crisis: Israel must lift the closure of the Gaza Strip and end Impunity*

Addameer Prisoner Support and Human Rights Association (Addameer), Al Mezan Centre for Human Rights (Al Mezan), BADIL Resource Centre for Palestinian Residency and Refugee Rights (Badil), and the Cairo Institute for Human Rights Studies (CIHRS) stress the need to immediately lift the closure of the Gaza Strip, and ensure that the Palestinian population has access to basic and inalienable human rights. The more than eight-year, ongoing closure of the Gaza Strip has created a protracted humanitarian crisis resulting in grave and systematic violations of human rights committed against the protected population under occupation.

According to UN Secretary General Ban Ki Moon, the closure blockade of the Gaza Strip amounts to collective punishment.[1] Collective punishment is strictly prohibited by the 4th Geneva Convention as well as by customary international law and constitutes a war crime.[2] The International Committee of the Red Cross (ICRC) and the UN Commission of Inquiry on the 2014 Gaza Conflict have also underlined the illegality of the closure.[3]

According to a coalition of four Palestinian human rights organizations,[4] between July and the end of August 2014, 2,219 Palestinians were killed during "Operation Protective Edge," the Israeli military assault on the Gaza Strip. Al Mezan documented the killing of 556 children and 293 women during the Israeli offensive, the vast majority of whom were killed inside their homes.[5] The Israeli military directly targeted, destroyed and damaged civilian and public infrastructure en masse, including medical, sanitation, education, and electricity facilities. There were no safe havens in the entirety of the Gaza strip and civilians and their proprieties where directly targeted. At least 31,974 housing structures were completely destroyed or sustained significant damages.[6] According to UN *Office for the Coordination of Humanitarian Affairs (OCHA)*, between June and August 2014, 27 Palestinians, including five children, were also killed in the occupied West Bank, including East Jerusalem.[7] In this same period, Israel continued the expansion of its illegal settlements in the occupied West Bank, including East Jerusalem and subjected the population to a campaign of collective punishment and forced displacement.[8]

One year on from the assault, Israel has not implemented measures to meaningfully ease restrictions or improve the humanitarian crisis in Gaza. Indeed, Israel continues to limit basic construction materials (gravel, steel bars, and

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[1] UNOCHA OPT, The Humanitarian Impact of the Closure, July 2015 : http://www.ochaopt.org/documents/ocha_opt_gaza_blockade_factsheet_july_2015_english.pdf

[2] ICRC, Customory IHL, Rule 103: Collective Punishments : https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule103

[3] See for example: ICRC News Release 14-06-2010 Geneva/Jerusalem (ICRC) - The hardship faced by Gaza's 1.5 million people cannot be addressed by providing humanitarian aid. The only sustainable solution is to lift the closure: https://www.icrc.org/eng/resources/documents/update/palestine-update-140610.htm . See also United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict - See more at: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15670&LangID=E#sthash.nAi0GDhk.dpuf..

[4] Al Mezan, Al-Haq, Palestinian Center for Human Rights, and Al Dameer Association for Human Rights – Gaza

[5] See also Al-Mezan and Lawyers for Palestinian Human Rights (LPHR), Joint-complaint concerning destruction and damage to family houses in the Gaza Strip: http://mezan.org/en/details.php?id=19551&ddname=IOF&id2=7&id_dept=30&p=center (updated complaint pending).

[6] OCHA, Gaza Emergency Situation: http://www.ochaopt.org/documents/ocha_opt_sitrep_27_08_2014.pdf, see also Al Mezan Centre for Human Rights database of monitoring conducted by four human rights organizations

[7] See OCHA, Humanitarian Bulletin Monthly Report June – August 2014, p.3: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf.

[8] Civic Coalition for Palestinian Rights in Jerusalem, Occupied East Jerusalem Report to the COI. 31 January 2015. http://www.civiccoalition-jerusalem.org/system/files/coi_brief_east_jerusalem_ccprj_final.pdf

cement). Less than 1% of the construction materials required to rebuild houses destroyed and damaged during the 2014 military bombardment, and to address natural population growth, have so far entered Gaza.

According to the World Bank, the eight-year closure of the Gaza Strip has reduced Gaza's GDP by 50%. The unemployment rate in Gaza during 2014 stood at 43%: the highest in the world. Youth unemployment exceeded 60%. Nearly 80% of Gaza's population receives some form of international aid, the bulk of which is food assistance.[9]

The Gaza Reconstruction Mechanism (GRM) is inefficiently slow against massive destruction and has not resulted in appropriate rebuilding. A year later and not one of the 8,377 fully destroyed houses has been rebuilt. Tens of thousands of Palestinians are still displaced, with many living in caravans or tents. Currently, Gaza receives only 7.5 % of the construction materials required to cover housing demands daily. According to Oxfam International, at the current rate of reconstruction and without lifting the closure, it could take more than 100 years to rebuild Gaza's housing, education, and health infrastructure.[10] According to the Norwegian Refugee Council, at the current rate that materials are entering Gaza, it will take over half a century to meet Gaza's housing needs only.[11]

The Israeli forces continue to maintain a buffer zone in the Gaza Strip, using live fire as a method to maintain the closure. The buffer zone areas are rich agricultural and fishing grounds. While the Oslo Accords afford 20 nautical miles (nm) of fishing grounds off the Gaza coast, Israel maintains that only between 3-6nm is permitted. At the time of publication, Israel allows fishing in only 4 nm. Further to increasing restrictions, Al Mezan documented the arrest of 24 Palestinian fishermen by Israeli forces – with methods amounting to cruel, inhuman and degrading treatment (CIDT) and sometimes torture - in 21 incidents of attack and harassment within the last three months. During these incidents, the Israeli Navy injured eight fishermen and confiscated eight boats. In the same time period, Israeli forces carried out 21 shelling attacks in the Gaza Strip that killed one person and injured eleven people, including three children.

The 1.8 million Palestinians in the Gaza Strip continue to be denied access to the remainder of the occupied Palestinian territory (OPT) and abroad. The movement restrictions imposed by Israel since the early 1990s and intensified in June 2007 serve to tear the Palestinian economic and social fabric, and fragment the OPT. The movement restrictions serve to dramatically jeopardize the contiguity of the OPT. The policies behind the restrictions on movement are evident in the rejection of a petition to Israel's Supreme Court to end the blanket ban on student travel from Gaza to the West Bank.[12] The case was dismissed by the Court despite the failure of the state representative to provide any evidence that the movement of students poses security risks. The ban, in violation of Article 13 of ICESCR, has been in effect since 2000. Hindering the normal functioning of the Palestinian education system, the ban on student movement hampers development without any lawful justification. The Israeli government informed the Court that the ban was motivated by pursuing a policy of separation between Gaza and the West Bank, and not by specific security concerns.

UN Relief and Works Agency's (UNRWA) severe and unprecedented financial crisis, reaching a $101 million fiscal deficit for the current year, has led to a reduction in health and education services, particularly threatening the functioning of 252 schools across Gaza and the enrolment of 248,000 Palestinian students.[13]

Israel, as the occupying power, must unconditionally lift the blockade, which severely undermines the human rights of Palestinians in Gaza. Israel must also assume its international legal obligations as the occupying power. According to Article 43 of the Hague Regulations, an occupying State has the duty to exercise its powers under all circumstances for the benefit of the occupied area and to refrain from taking into consideration its national, economic, and social interests

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[9] UNOCHA OPT, The Humanitarian Impact of the Closure, July 2015

[10] Oxfam International. Vital Building in Conflict Damaged Gaza to Take More than a Century at Current Rate. N.p., 26 Feb. 2015. Web. https://www.oxfam.org/en/pressroom/pressreleases/2015-02-26/vital-building-conflict-damaged-gaza-take-more-century-current

[11] Norwegian Refugees Council, 100,000 still homeless one year after Gaza war, 6 July 2015: http://reliefweb.int/report/occupied-palestinian-territory/100000-still-homeless-one-year-after-gaza-war

[12] See, Gisha, Supreme Court upholds refusal to allow gender studies students to travel from Gaza to the West Bankhttp://gisha.org/updates/1818

[13] Middle East Monitor, UNRWA funding crisis strikes fear into Gaza's, August 2nd 2015 refugeeshttps://www.middleeastmonitor.com/news/middle-east/20180-unrwa-funding-crisis-strikes-fear-into-gazas-refugees

in as much as such interests have no effect on its security or the interest of the local population. Israel must ensure the welfare of the population in the Gaza Strip, not only by fully lifting the closure, but also in immediately facilitating the reconstruction efforts in the Gaza Strip, and providing the population with the necessary access for services to guarantee their economic, social, and cultural rights.

The closure policy cannot be seen but in the context of Israel's efforts to prevent Palestinian self-determination. Israel is implementing a policy of fragmentation of space, dividing the West Bank from the Gaza Strip, in order to pursue a land annexation policy, and thwart the possibility of the creation of a viable Palestinian State. The closure policy is not a security measure, but rather a political measure to serve Israeli strategic aims.

Israeli courts have systemically failed to uphold human rights protection of Palestinians under occupation in the Gaza Strip and the West Bank alike. In failing to do so, they have also encouraged a system of impunity that is acquiescing to the lack of political will to ensure accountability and justice. Palestinians continue to be deprived of any effective means to seek remedies for the systematic and widespread violation of their rights. In the absence of any effective deterrence factor, Israel can maintain the prolonged occupation and its associated regime indefinitely, in total disregard of the legal and moral obligations emanating from core international law principles and standards. In this regard, the link between the closure policy and Israel's systematic lack of accountability is evident in the Israeli government's denial of Palestinian victims' physical access to Israeli courts, which results in the dismissal of their cases.

The initiatives currently underway to secure justice and accountability internationally, notably through the preliminary examination that is being conducted by the International Criminal Court (ICC) are being repeatedly undermined, obstructed, and delayed. These actions therefore require the full support and backing of the Council and the international community in line with UN principles of justice and international law.

Our organizations call upon the UNHRC to take a firm stance to pressure Israel, the occupying power, to immediately and fully lift the closure of the Gaza Strip, and to unconditionally facilitate and assist the necessary reconstruction efforts.

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* Addameer Prisoner Support and Human Rights Association and Al Mezan Centre for Human Rights, NGOs without consultative status, also share the views expressed in this statement.